

भारत का राजपत्र The Gazette of India

असाधारण

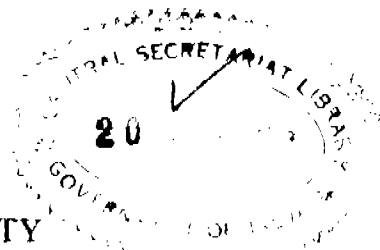
EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

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No. 26] NEW DELHI, MONDAY, JUNE 9, 1969/JYAISTHA 19, 1891

इस भाग में निम्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 9th June, 1969/Jyaistha 19, 1891 (Saka)

THE CENTRAL SALES TAX (AMENDMENT) ORDINANCE, 1969

No. 4 of 1969

Promulgated by the Vice-President acting as President in the Twentieth Year of the Republic of India.

An Ordinance further to amend the Central Sales Tax Act, 1956, and to provide for certain other connected matters.

WHEREAS Parliament is not in session and the Vice-President acting as President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the Vice-President acting as President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Central Sales Tax (Amendment) Ordinance, 1969.

Short title and commencement.

(2) It shall come into force at once.

2. During the period of operation of this Ordinance, the Central Sales Tax Act, 1956 (hereinafter referred to as the principal Act) shall have effect subject to the amendments specified in sections 3, 4, 5, 6, 7 and 8.

Act 74 of 1956 to be temporarily amended.

3. In section 2 of the principal Act, in clause (j), for the words "and determined in the prescribed manner", the words "and determined in accordance with the provisions of this Act and the rules made thereunder" shall be, and shall be deemed always to have been, substituted.

Amendment of section 2.

Amendment
of section 6.

4. In section 6 of the principal Act, after sub-section (1), the following sub-section shall be, and shall be deemed always to have been, inserted, namely:—

“(1A) A dealer shall be liable to pay tax under this Act on a sale of any goods effected by him in the course of inter-State trade or commerce notwithstanding that no tax would have been leviable (whether on the seller or purchaser) under the sales tax law of the appropriate State if that sale had taken place inside that State.”

Insertion of
new section
8A.

5. After section 8 of the principal Act, the following section shall be, and shall be deemed always to have been, inserted, namely:—

Determina-
tion of
turnover.

“8A. (1) In determining the turnover of a dealer for the purposes of this Act, the following deductions shall be made from the aggregate of the sale prices, namely:—

(a) the amount arrived at by applying the following formula—
rate of tax \times aggregate of sale prices

—————:
100 plus rate of tax

Provided that no deduction on the basis of the above formula shall be made if the amount by way of tax collected by a registered dealer, in accordance with the provisions of this Act, has been otherwise deducted from the aggregate of sale prices.

Explanation.—Where the turnover of a dealer is taxable at different rates, the aforesaid formula shall be applied separately in respect of each part of the turnover liable to a different rate of tax;

(b) the sale price of all goods returned to the dealer by the purchasers of such goods within a period of three months from the date of delivery of the goods:

Provided that satisfactory evidence of such return of goods and of refund or adjustment in accounts of the sale price thereof is produced before the authority competent to assess or, as the case may be, re-assess the tax payable by the dealer under this Act; and

(c) such other deductions as the Central Government may, having regard to the prevalent market conditions, facility of trade and interests of consumers, prescribe.

(2) Save as otherwise provided in sub-section (1), in determining the turnover of a dealer for the purposes of this Act, no deduction shall be made from the aggregate of the sale prices.”

Substitution
of new sec-
tion for
section 9.

6. For section 9 of the principal Act, the following section shall be, and shall be deemed always to have been, substituted, namely:—

Levy and
collection of
tax and
penalties.

“9. (1) The tax payable by any dealer under this Act on sales of goods effected by him in the course of inter-State trade or commerce, whether such sales fall within clause (a) or clause (b) of section 3, shall be levied by the Government of India and the tax so levied shall be collected by that Government in accordance with the provisions of sub-section (2), in the State from which the movement of the goods commenced:

Provided that, in the case of a sale of goods during their movement from one State to another, being a sale subsequent to the first sale in respect of the same goods, the tax shall, where such sale does not fall within sub-section (2) of section 6, be levied and collected in the State from which the registered dealer effecting the subsequent sale obtained or, as the case may be, could have obtained, the form prescribed for the purposes of clause (a) of sub-section (4) of section 8 in connection with the purchase of such goods.

(2) Subject to the other provisions of this Act and the rules made thereunder, the authorities for the time being empowered to assess, re-assess, collect and enforce payment of any tax under the general sales tax law of the appropriate State shall, on behalf of the Government of India, assess, re-assess, collect and enforce payment of tax, including any penalty, payable by a dealer under this Act as if the tax or penalty payable by such a dealer under this Act is a tax or penalty payable under the general sales tax law of the State; and for this purpose they may exercise all or any of the powers they have under the general sales tax law of the State; and the provisions of such law, including provisions relating to returns, provisional assessment, advance payment of tax, registration of the transferee of any business, imposition of the tax liability of a person carrying on business on the transferee of, or successor to, such business, transfer of liability of any firm or Hindu undivided family to pay tax in the event of the dissolution of such firm or partition of such family, recovery of tax from third parties, appeals, reviews, revisions, references, refunds, rebates, penalties, compounding of offences and treatment of documents furnished by a dealer as confidential, shall apply accordingly:

Provided that if in any State or part thereof there is no general sales tax law in force, the Central Government may, by rules made in this behalf, make necessary provision for all or any of the matters specified in this sub-section.

(3) The proceeds in any financial year of any tax, including any penalty, levied and collected under this Act in any State (other than a Union territory) on behalf of the Government of India shall be assigned to that State and shall be retained by it; and the proceeds attributable to Union territories shall form part of the Consolidated Fund of India."

7. Section 10A of the principal Act shall be, and shall be deemed ^{Amendment of section 10A.} always to have been, re-numbered as sub-section (1) of that section and after the said sub-section (1), the following sub-section shall be, and shall be deemed always to have been, inserted, namely:—

"(2) The penalty imposed upon any dealer under sub-section (1) shall be collected by the Government of India in the manner provided in sub-section (2) of section 9—

(a) in the case of an offence falling under clause (b) or clause (d) of section 10, in the State in which the person purchasing the goods obtained the form prescribed for the purposes of clause (a) of sub-section (4) of section 8 in connection with the purchase of such goods:

(b) in the case of an offence falling under clause (c) of section 10, in the State in which the person purchasing the goods should have registered himself if the offence had not been committed."

8. In section 13 of the principal Act, in clause (f) of sub-section (1), ^{Amendment of section 13.} for the word, brackets and figure "sub-section (3)", the word, brackets and figure "sub-section (2)" shall be, and shall be deemed always to have been, substituted.

9. (1) Notwithstanding anything contained in any judgment, decree ^{Validation of assessments, etc.} or order of any court or other authority to the contrary, any assessment, re-assessment, levy or collection of any tax made or purporting to have been made, any action or thing taken or done in relation to such assessment, re-assessment, levy or collection under the provisions of the principal Act before the commencement of this Ordinance, shall be deemed to be as valid and effective as if such assessment, re-assessment, levy or collection or action or thing had been made, taken or done under the principal Act as amended by this Ordinance and accordingly—

(a) all acts, proceedings or things done or taken by the Government or by any officer of the Government or by any other authority

in connection with the assessment, re-assessment, levy or collection of such tax shall, for all purposes, be deemed to be, and to have always been, done or taken in accordance with law;

(b) no suit or other proceedings shall be maintained or continued in any court or before any authority for the refund of any such tax; and

(c) no court shall enforce any decree or order directing the refund of any such tax.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person—

(a) from questioning in accordance with the provisions of the principal Act, as amended by this Ordinance, any assessment, re-assessment, levy or collection of tax referred to in sub-section (1), or

(b) from claiming refund of any tax paid by him in excess of the amount due from him by way of tax under the principal Act as amended by this Ordinance.

Exemption
from liabi-
lity to pay
tax in certain
cases.

10. (1) Where any sale of goods in the course of inter-State trade or commerce has been effected during the period between the 10th day of November, 1964, and the commencement of this Ordinance, and the dealer effecting such sale has not collected any tax under the principal Act on the ground that no such tax could have been levied or collected in respect of such sale or any portion of the turnover relating to such sale and no such tax could have been levied or collected if the amendments made in the principal Act by this Ordinance had not been made, then, notwithstanding anything contained in section 9 or the said amendments, the dealer shall not be liable to pay any tax under the principal Act, as amended by this Ordinance, in respect of such sale or such part of the turnover relating to such sale.

(2) For the purposes of sub-section (1), the burden of proving that no tax was collected under the principal Act in respect of any sale referred to in sub-section (1) or in respect of any portion of the turnover relating to such sale shall be on the dealer effecting such sale.

V. V. GIRI,

Vice-President acting as President.

N. D. P. NAMBOODIRIPAD,

Joint Secy. to the Govt. of India.